

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2305 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHAMBHUBHAI VIRAJIBHAI

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioners

MS. NANDINI JOSHI AGP for Respondent No. 1

MR ND NANAVATI for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 10/11/2000

ORAL JUDGEMENT

1. In this petition filed under Article 226 of the Constitution of India, petitioner No.1 Shambhubhai Virjibhai and petitioner No.2 Gujarat Rajya Ardha Sarkari Aydhyogik Karmachari Sangh which has the members as per the Annexure B to the petition, through its Treasurer Mr.

R.C. Pathak claimed that they are employees working under the Executive Engineer (Road & Building), District Panchayat, Rajkot and they were daily-rated employees and by Government Resolution dated October 17, 1988 they became permanent employees and were entitled to the benefits by virtue of item No.3 of the said resolution and prayed to issue a writ, order or direction in the nature of mandamus or certiorari declaring the impugned action on the part of the respondents of paying different wages to similarly situated employees as arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

2. At the time of hearing of this petition, it was jointly and rightly submitted by Mr. Pathak, learned advocate for the petitioners and Ms. Nandini Joshi, learned AGP for State that by virtue of the Government Resolution dated October 17, 1988 as per item No.3, Government has decided to accord all benefits to those rojamdars who have completed 10 years of service and to put them in the pay scale of Rs.750 - 940 including dearness allowance, HRA and after retirement benefits and, therefore, now no further orders are required to be passed. However, according to Mr. Pathak, only one clarification is required to be made to the effect that the Government shall designate them as permanent employees instead of Kayami Rojamdars. In support of the aforesaid submission, he has placed reliance on two judgments of this Court, (i) rendered in Special Civil Application No. 5757 of 1988 dated October 23, 1999 (Coram: H.K. Rathod, J.) and (ii) in Special Civil Application Nos. 28, 64, 65, 67, 68 and 252 of 1988 dated April 6, 2000 (Coram: P.K. Sarkar, J.) and supplied simple copy of the above referred to two judgments, which are ordered to be retained on record.

3. I have gone through both the judgements referred to above as well as the Government Resolution dated October 17, 1988 and I am of the opinion that as per the said resolution Government has decided to accord all the benefits to those rojamdars who have completed ten years of service entitling them to pay scale of Rs.750-940 including DA, HRA and after retirement benefits and, therefore, there is no justification in not treating them as permanent employees. I am, therefore, of the opinion that the Government should treat those rojamdars who have completed 10 years of service as permanent employees instead of kayami rojamdars and grant all consequential and incidental benefits to them on completion of ten years of service as per the resolution dated October 17, 1988.

4. So far as other prayers made in the petition are concerned, Mr. Pathak, learned advocate for the petitioners, does not press the same in view of the aforesaid observations and directions.

5. For the foregoing reasons, the petition succeeds in part and accordingly it is partly allowed. The respondents are directed to treat those rojamdars who have completed 10 years of service as permanent employees instead of kayami rojamdars and grant all consequential and incidental benefits to them on completion of ten years of service as per the resolution dated October 17, 1988. Rule is made absolute to the aforesaid extent only with no order as to costs.

10.11.2000. (A.M. Kapadia, J.)